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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,502	05/20/2004	Lucien Y. Bronicki	15162X	6015

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NATH & ASSOCIATES
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EXAMINER

NGUYEN, HOANG M

ART UNIT PAPER NUMBER

3748

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/849,502	Applicant(s) BRONICKI, LUCIEN Y.	
	Examiner Hoang M. Nguyen	Art Unit 3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's amendment dated June 26, 2006, has been fully considered.

Because claims 1-20 have been canceled, and a terminal disclaimer has been filed, the double patenting and obviousness double patenting have been withdrawn.

Applicant has argued that US 4104535 does not disclose the invention because the secondary power plant produces is able to produce 100%, not between 5-15% as claimed. The Examiner strongly disagrees because US 4104535 clearly discloses that the output load of the secondary converter can be adjusted. For example, the secondary converter produces 50% of the electrical load if both converters are working, and 100% of the load if the primary converter is not working. Therefore, it's inherent that the secondary converter can have variable output and 5%-15% is within the capability of the secondary converter. The 10% fuel supplied into the second converter provides another support that the amount of work output in the secondary converter can be varied. Please note the phrase "is capable of" is very broad. If US 4104535 can produce 50%-100% the total load, it's inherent that it can produce a lower percentage such as 5-15%. The claims never limit the scope that it can only produce 5-15%. Therefore, it's clear that US 4104535 clearly teaches the claimed invention.

A new reference, US 4041210 (Van Dine) is cited herein to disclose the concept of using molten carbonate fuel cell as the primary converter.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-24, 27-31, 34, are rejected under 35 U.S.C. 102(b) as being anticipated by US 4104535 (Bronicki).

Bronicki discloses a hybrid electric power generating system comprising a pair of power plants, the second power plant used the waste heat of the first power plant through the heat exchanger 26, a supplemental fuel source having a control 25 is used to supply supplemental fuel through valves 17-1, 17-2, and burners 14-1, 14-2, so that the second power plant can supply from 10% up to 50% of the total load (note column 8, claim 14). This 50% clearly indicates that the second power plant is able to produce 100% power of the first power plant. Also, on column 3, lines 51-52, seems to indicate that the second power plant can supply 100% of the electric load. On column 6, lines 8-11, Bronicki discloses that the second power plant is in hot standby load.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 25-26, 32-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. 4104535 (Bronicki). Bronicki discloses all the claimed subject

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matter as set forth above, but does not disclose different types of first power plant.

However, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to select different types of first power plant in Bronicki to provide waste heat to the second power plant for the purpose of achieving appropriate amount of heat. (note the Van Dine reference if Applicant needs specific teaching for the molten carbonate fuel cell).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner Nguyen whose telephone number is (571) 272-4861. The examiner can normally be reached on Tuesday--Friday from 12:30 AM to 10:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


06/30/06

HOANG NGUYEN
PRIMARY EXAMINER
ART UNIT 3748

Hoang Minh Nguyen
6/30/2006